



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0117; FRL-9907-50-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Illinois; 10-Year FESOP Amendments**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Illinois' rule revision to extend the term for an initial permit or renewal of a Federally Enforceable State Operating Permit (FESOP) from five years to ten years. Illinois submitted this rule revision for approval on January 9, 2014. FESOPs apply to non-major sources that obtain enforceable limits to avoid being subject to certain Clean Air Act (Act) requirements, including the Title V operating permit program. This revision meets the Federal requirements found in the June 28, 1989, rule addressing Federal enforceability of FESOPs. This rule revision is expected to reduce the administrative costs of the permitting process for both the affected sources and the Illinois Environmental Protection Agency (IEPA). It will also allow IEPA to devote more resources to major source Title V permitting actions and permit modifications for both Title V and FESOP sources.

DATES: This direct final rule is effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA

receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2014-0117, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: damico.genevieve@epa.gov.
3. Fax: (312) 886-0968.
4. Mail: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2014-0117. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some

information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, blathras.constantine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Action is EPA Taking?
- II. Statutory and Executive Order Reviews.

I. What Action is EPA Taking?

EPA is approving the revisions to Illinois Administrative Code (Ill. Adm. Code) Section 201.162(a) regarding the permit

terms for FESOPs. Ill. Adm. Code Section 201.162(a) is a general provision in the Illinois permitting rules that cites the term of a permit. This section has been modified to add a provision stating that a FESOP permit is effective for a permit term not to exceed ten years. IEPA retains the discretion that it currently has under Section 201.162 to issue permits for a term that is shorter than the maximum. This provision does not apply to Title V permits issued by the IEPA.

EPA approved the Illinois FESOP program into the state implementation plan (SIP) on December 17, 1992 (57 FR 59928). In its approval of Illinois' FESOP program, EPA determined that Illinois' program was consistent with those requirements. On January 9, 2014, IEPA submitted a revision to the FESOP regulations at 35 Ill. Adm. Code Section 201.162 requesting EPA approval as a revision to the SIP to increase the FESOP term from five years to ten years. EPA's requirements for FESOPs are contained in a June 28, 1989, rule addressing Federal enforceability (54 FR 27274). As such, EPA finds the modifications to 35 Ill. Adm. Code Section 201.162 acceptable.

Granting FESOP permits for no longer than ten years will not affect implementation of air pollution control programs or enforcement of air quality standards in the State of Illinois. Sources must comply with all applicable requirements of the Act regardless of the length of a FESOP's term or the timing of its

issuance. FESOPs generally contain limits on the operations of the plant, e.g., materials used and hours of operation, which effectively restrict the source's potential to emit. Illinois' FESOP program requires the permits to undergo public notice and be subject to public comment. A FESOP does not impact any previously or newly applicable substantive requirements of the Act, such as new maximum achievable control technology standards under Section 112. Such provisions remain independently enforceable. Similarly, FESOP holders will still need to meet all applicable requirements under the Act, including those related to new construction. As such, an extension of FESOP initial or renewal terms from five to ten years does not delay the obligation of a source to comply with all applicable requirements.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL

REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

II. Statutory and Executive Order Reviews.

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM

DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 24, 2014.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O- Illinois

2. Section 52.720 is amended by adding paragraph (c)(198) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(198) On January 9, 2014, Illinois submitted modifications to its Federally Enforceable State Operating Permits rules as a revision to the state implementation plan. The revision extends the maximum permit term of Federally Enforceable State Operating Permits from five years to ten years.

(i) Incorporation by reference. Illinois Administrative Code Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter a: Permits and General Provisions; Part 201: Permits and General Provisions; Subpart D: Permit Applications and Review Process; Section 201.162: Duration; Subsection 201.162(a). Effective December 1, 2010.

[FR Doc. 2014-07560 Filed 04/04/2014 at 8:45 am; Publication
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